SUPREME COURT OF THE UNITED STATES.

No. 71.

FARMERS' BANK OF ALEXANDRIA, APPELLANT,

VERSUS

JOHN HOOFF ET AL.

ON APPEAL FROM CIRCUIT COURT U. S. FOR THE COUNTY OF ALEXANDRIA, D. C.

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DISTRICT OF COLUMBIA, to wit:

Pleas before the honorable the Judges of the United States' circuit court of the District of Columbia, for the county of Alexandria, at the court-house in the town of Alexandria, the first day of December, in the year of our Lord 1831.

THE FARMERS' BANK OF ALEXANDRIA, compl'ts, *against* JOHN HOOFF, JAMES GALT, ALFRED GALT, JAMES R. GALT, TAMMANY GALT, MORDECAI MILLER, and JAMES GALT, administrator of Mary Resler, def'ts. } *In Chancery.*

Be it remembered, that, heretofore, to wit, on the 21st day of September, 1829, came the complainants, by R. I. Taylor, esq., their solicitor, and sued out of the clerk's office a writ of subpœna

against the said defendants; which, with the endorsements thereon, is in the words and figures following:

DISTRICT OF COLUMBIA, to wit:

The United States of America to the Marshal of the District of Columbia, greeting:

Subpœna. You are hereby commanded to summon John Hooff, James Galt, Alfred Galt, James R. Galt, Jacob Galt, Tammany Galt, Mordecai Miller, and James Galt, administrator of Mary Resler, to appear before the honorable Judges of the circuit court of the District of Columbia, for the county of Alexandria, at the court-house of the said county, in the town of Alexandria, at the next court, to answer a bill in chancery exhibited against them by the Farmers' Bank of Alexandria; and this they shall in no wise omit, under the penalty of $333 33; and have then there this writ. Witness, the honorable William Cranch, Chief Judge of our said court, this 21st day of September, 1829.

EDM. I. LEE, *C. C.*

(Endorsements.)

Executed on Mordecai Miller, James Galt, administrator of Mary Resler. Since acknowledged by John Hooff; the other defendants not found, and no inhabitants.

C. SCOTT, *D. M.*
for T. Ringgold, Marshal.

Service acknowledged.

JOHN HOOFF.

Service acknowledged by me.

JACOB GALT.

At another day, to wit, at the rules held in the clerk's office of the said court, for the month of November, in the year aforesaid, came the said complainants, by their solicitor, and filed there a certain bill against the said defendants; and a day is thereupon given the said defendants to file their answers, to wit, until the rules to be holden for the month of February next; and the same day is given the complainants; which bill is in the words and figures following:

Bill. To the honorable the Judges of the United States' circuit court of the District of Columbia and county of Alexandria. Humbly complaining, your orators, the Farmers' Bank of Alexandria, by R. I. Taylor, their solicitor, show unto your honors that the president and directors of said bank heretofore loaned to a certain Mary Resler, since deceased, on her nine separate notes, the sum of one thousand two hundred and sixty-seven dollars, which were endorsed, some by Lawrence Hooff, jr., some by Wm. B. Richards, and the residue by John Zimmerman, since deceased. That the said notes were, from time to time, renewed, and the sum reduced; and further to secure the payment of the said sum of money, the said Mary Resler, on the tenth day of September, in the year one thousand eight hundred and twenty-three, made and executed a deed to John Hooff, who your orators pray may

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be made a defendant to this bill of complaint, conveying to him, in trust, a lot of ground, and the three story brick dwelling-house, and other houses thereon situate, lying and being in the town of Alexandria, upon the south side of Prince street, and to the west of Fairfax street, the boundaries of which are particularly set forth in the said deed, which is hereunto annexed, and prayed to be received as a part of this bill. Your orators further state that, of the notes aforesaid, the following were endorsed by Lawrence Hooff, jr.: one for one hundred and eighty dollars; one for one hundred and fifty-five dollars; one for fifty-five dollars; and one for two hundred and thirty-five dollars; in all, six hundred and twenty-five dollars, have been due ever since the months of May and June, eighteen hundred and twenty-seven, as will appear by a statement hereunto annexed. Your orators further state that, since the said notes have become due, the said Mary Resler has departed this life; that James Galt has administered upon her estate, who your orators pray may be made a defendant to this bill. That the said Mary Resler derived her title to the said property conveyed as aforesaid by her in trust, by the last will of her husband, Jacob Resler, a true copy of which is hereunto annexed as a part of this bill. By the will aforesaid, he gives her the whole of his estate, both real and personal, during her *widowhood*, or, in other words, whilst she bears his name. But, *in case* she should *marry*, he then gives the whole of his estate, both real and personal, to his daughter, Eve Resler, and her heirs for ever. Your orators further state that the said *Eve Resler was the only child of the said Jacob and his said wife Mary*. That the said Mary Resler did not marry, but died bearing the name of her husband. That the said Eve Resler, after the death of her father, intermarried with one *James Galt*, who your orators pray may be made a defendant to this bill. That the said Eve Galt hath since departed this life, leaving the following children, to wit: Alfred, James R., Jacob, and Tammany, who are her heirs, and who your orators pray may be made defendants to this bill. Your orators further state that the said deed of trust to the said John Hooff has been duly recorded; a certificate of which is endorsed on the said deed, and prayed to be received as a part of this bill. Your orators further state that Mordecai Miller, who they pray may be made a defendant to this bill, claims an interest in the said house and lot. The said James Galt, Alfred Galt, James R. Galt, Jacob and Tammany Galt, and the said Mordecai Miller, contend that the said Mary Resler had no more than a life estate in the said house and lot. Your orators are advised that the said Mary Resler took a fee simple estate in the said house and *lot to be defeated by her marrying again;* and that the same is liable for the debts due to the said bank as aforesaid. Under these circumstances, the said John Hooff, the trustee, declines to make a sale under the said deed of trust, although required to do so; all which actings and doings of the said defendants are contrary to equity and good conscience, and tend to the wrong and injury of your orators. In tender consideration of the premises, and for as much as your orators are without a remedy in a court of law,

and can only be relieved in a court of chancery; to the end, therefore, that the said defendants may each of them true answers make to all and each of the allegations of the said bill, in as full and ample a manner as if the same were herein again repeated, and they thereto specially interrogated, and that the *equity of redemption of the said heirs of Eve Galt, and of Mordecai Miller*, may be for ever foreclosed; and the said defendant, John Hooff, the trustee aforesaid, *be decreed to proceed to sell* the property aforesaid; and out of the proceeds of the same, as far as they will go, pay to your orators the balance due on the notes aforesaid, including principal and interest, and the costs of this suit, and of the said sale. And if the court should be of opinion that the said house and lot is not liable for the payment of the debts aforesaid, that the said James Galt, administrator aforesaid, may be decreed to settle his administration account, and state what assets of the said Mary Resler came to his hands, and, also, how they have been disposed of; and out of the personal assets, pay the aforesaid debts to your orators; and that such other and further decree may be made in the premises as shall be just and equitable. May it please the court to grant to your orators the United States' writ of subpœna in chancery, to the said defendants to be directed, commanding them, and so forth, &c.

Bill taken for confessed.

At another day, to wit, at the rules held in the clerk's office of the said court, for the month of February, in the year 1830, (until which time this cause had been regularly continued,) the defendants having failed to appear and *and* answer the bill, on the complainants' motion, by their counsel, it is ordered that their bill be taken for confessed, and set for decree as to those on whom process has been served, and continued as to the other defendants.

And at a court continued and held for the District and county aforesaid, the 8th day of May, 1830, this cause was continued.

At another day, to wit, at a court continued and held for the District and county aforesaid, the 3d day of December, 1830, came the defendant, Jacob Galt, by Wm L. Hodgson, esq., his solicitor, and the order, taking the bill for confessed, is set aside as to him, and he thereupon filed his answer, to which the complainants reply generally, and issue; which answer is in the words and figures following:

Answer of Jacob Gal filed, and ge eral rep. and issue.

The answer of Jacob Galt to the bill of complaint exhibited against him and others in the United States' circuit court for the county of Alexandria, sitting in chancery, by the Farmers' Bank of Alexandria.

This respondent, reserving to himself all benefit of exception to the complainants' bill, for answer to so much thereof as he is advised it is material for him to answer to, says, that he admits that his grandmother, Mary Resler, who is the same person mentioned in the bill of the complainants, had some notes discounted in the Farmers' Bank of Alexandria, but to what amount, or of what number, or by whom endorsed, this repondent cannot, with accuracy, state; but he believes some of them were endorsed by

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the said Lawrence Hooff, jr.—but he believes that they were all of them for the use and accommodation of the said Lawrence. This respondent believes that large payments had been made by his grandmother. He admits that James Galt did administer upon the estate of the said Mary Resler. He admits that Mary Resler did convey the property mentioned in the bill to the said John Hooff, in trust, for the purposes mentioned in the original deed annexed as an exhibit to the complainants' bill; but, he contends, that, under the will of the said Jacob Resler, a certified copy of which is also annexed to the bill of the complainants, that the said Mary Resler was only possessed of, and entitled to, an estate for her own life; and that, upon her death, the said property descended in parcenary, in fee simple, to your respondent, and his brothers, Alfred, James M., and Tammany. He therefore denies that the said Mary Resler could convey the said property for any further or other estate or term than the duration of her own life. He admits that the said Mary never intermarried with any one after the death of the said Jacob; that her daughter, Eve Resler, who intermarried with James Galt, the father of this respondent, died before the said Mary Resler, leaving the four children above mentioned, of whom your respondent is one. This respondent having fully answered, begs to be hence dismissed, with his costs, &c.

WM. L. HODGSON,
Sol'r for Def't.

COUNTY OF ALEXANDRIA, D. C.

This day the respondent, Jacob Galt, personally appeared before me, the subscriber, a justice of the peace for the county aforesaid, and made oath that the matters and things set forth in the answer above, are true.

Given under my hand, this 27th day of November, 1830.

JONA. SHILLABER,
Justice of the Peace.

At another day, to wit, at a court continued and held for the District and county aforesaid, the 7th day of May, 1831, this cause was continued.

Decree.

And now here, at this day, to wit, at a court continued and held for the said District and county, the aforesaid first day of December, 1831; the bill in this cause having been taken for confessed, and set for decree as to those defendants who have not answered; and the cause coming on to be heard on the bill and exhibits, and the answers of the defendants, Jacob Galt and *Mordecai Miller;* and having been argued by counsel; and the court being of opinion that, by the will of the said Jacob Resler, Mary Resler, his wife, was only entitled to an estate for life in the property conveyed by the deed from the said Mary Resler to John Hooff: It is therefore adjudged, ordered, and decreed, that the bill of the complainants as to the defendants' children of Eve Galt, and the said Mordecai Miller, be dismissed with costs. From which decree the complainants pray an appeal to the Supreme Court of the United States, which is granted upon their giving

bond, with security, to be approved by one of the judges of this court.

Order of reference.

And afterwards, to wit, on the second day of December, in the same year, at a court continued and held for the District and county aforesaid, on the complainants' motion, this cause is referred to Master Commissioner Moore to settle the account of James Galt, as administrator of Mary Resler, deceased, and report the same to this court.

Exhibits referred to in the Complainants' Bill.

Deed.

This indenture, made this tenth day of September, in the year one thousand eight hundred and twenty-three, between Mary Resler, of the town and county of Alexandria, and District of Columbia, of the one part, and John Hooff, of the same place, of the other part:

Whereas, the said Mary Resler hath obtained discounts at the Farmers' Bank of Alexandria, on six promissory notes, drawn by herself, and endorsed by Lawrence Hooff, jr., of the dates, and for the sums following: the first of which notes is dated on the second day of this month, September, in the present year, (1823) for thirty dollars, which will be due and payable on the 11th and 14th days of this present month; the second of which notes is dated the 22d of July, in the year 1823, for two hundred and fifty dollars, which will fall due on the 20th and 23d days of this month; the third note, dated the twenty-ninth day of July, in the year 1823, for one hundred and ninety dollars, which will be due on the 27th and 30th days of this month, September; the fourth note, dated the 2d day of this month, September, in the year 1823, for eighty dollars, which will be due on the 2d and 5th days of October next; the fifth note, dated the 12th of August, in the year 1823, for two hundred dollars, which will be due on the 11th and 14th days of October next; and the sixth note, for three hundred dollars, dated the second day of this month, September, in the year 1823, which will be due on the 1st and 4th of November; all which six notes amount to one thousand and fifty dollars. And whereas the said Mary Resler hath obtained the discount at the said bank of the three other notes, drawn by herself; one of which is dated the 22d day of this month, September, for fifty dollars, endorsed by William B. Richards, which will be due on the 20th and 23d *days of this month*; another of the said last notes is for one hundred dollars, endorsed by John Zimmerman, dated the 5th day of August, in the year 1823, which will be due on the 4th and 7th days of October next; and another of the said notes, for sixty-five dollars, endorsed by William B. Richards, dated the 26th day of August, in the year 1823, which will be due on the 25th and 28th days of October next; which three last mentioned notes amount to two hundred and fifteen dollars; the whole amount of the aforesaid nine notes, being one thousand two hundred and sixty-five dollars. Now this indenture witnesses, that the said Mary Resler, as well for the purpose

aforesaid expressed, as in consideration of one dollar to her in hand paid by the said John Hooff, of which the receipt is hereby acknowledged, hath granted, bargained, and sold, aliened and confirmed, and, by these presents, doth grant, bargain, and sell, alien and confirm, to the said John Hooff, that three story brick house, and the lot on which the said house stands, and which is attached to, and used with, the said house, situate, lying, and being upon the south side of Prince street, and to the westward of Fairfax street, in the town of Alexandria, and bounded as follows, to wit: beginning upon Prince street ninety-two feet to the westward of Fairfax street, and running thence westwardly with Prince street, and binding therewith twenty-three feet; thence, southwardly, with a line parallel to Fairfax street, eighty-eight feet four and an half inches, to the back line of Jonah Thompson and Richard Veitch's lot, which was, or is now, theirs, be the same more or less; thence eastwardly, with a line parallel to Prince street, twenty three feet; thence with a straight line to the beginning; the said lot being part of a lot sold by Josiah Watson, and Jane his wife, to the said Jonah Thompson and Richard Veitch, and which was afterwards sold and conveyed by the said Jonah Thompson and Richard Veitch, by their deed dated the first day of September, in the year one thousand eight hundred and three, to Jacob Resler, husband of the said Mary Resler, which last mentioned deed was duly recorded on the twenty *three* day of December, in the year one thousand eight hundred and three, in the office of the circuit court of the District of Columbia, for the county of Alexandria, in liber G, folio 384, which lot of ground and house was devised to the said Mary Resler, by her said late husband, Jacob Resler, in his last will and testament, duly proved and recorded in the Register's office of the orphan's court for the county of Alexandria. And all houses, buildings, streets, lanes, alleys, profits, commodities, hereditaments, appurtenances, whatsoever, to the said premises belonging, or in any wise appertaining, and reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and every part and parcel thereof: To have and to hold the said lot and house, and appurtenances before described, to the said John Hooff, his heirs and assigns, to their only proper use for ever. In trust, however, for the following purposes, and none other; that is to say, to permit the said Mary Resler, her heirs and assigns, to retain possession, and to receive the rents and profits without account, until a sale shall become necessary under the terms of this deed. If the said Mary Resler shall, at any time, fail to pay the full amount of either, or of all the aforesaid notes, or of such other notes as may be discounted, from time to time, by the said bank, for her use, in renewal or continuance of all or any of the said notes, at such times or times as the president and directors of the said Farmers' Bank shall, from time to time, require; or shall fail to pay up, regularly and punctually, the curtailments which may be made on any one, or the whole, of the notes given in continuance of the said several debts, or of any part of the said debts; or shall fail to pay up.

duly and punctually, the discounts which may become due on the renewal or continuance of the said notes, or of any one of them; then that the said John Hooff, or his heirs, shall, on the request of the said president and directors of the said bank, or of either of the endorsers, proceed to sell the premises before described, at public auction, for cash, or such credit as the parties concerned may direct; and, after defraying all reasonable expenses and charges attending the sale, shall, out of the money thence to arise, pay the amount which may be then due on all or any of the aforesaid notes, or on the notes which may be given in renewal and continuance of the notes herein before particularly mentioned in this deed, whether as principal or discount, interest or costs of protest; and if any balance remain, shall pay over the same to the said Mary Resler, her heirs, executors, administrators, or assigns, and shall convey the premises sold to the purchaser or purchasers: Provided always, and on this condition, that, if the said Mary Resler, her heirs or assigns, shall, at any time before sale actually made, pay to the said bank the full amount of the said notes, interest, and all costs, of every kind, which is, or may become due, on account of the same; and shall also pay the costs and charges which shall have accrued under this instrument; then this indenture shall become void, and all the estate hereby granted shall cease and determine. And the said Mary Resler, for herself and her heirs, executors and administrators, doth covenant with the said John Hooff, his heirs and assigns, and with the said Farmers' Bank of Alexandria, that she, the said Mary Resler, at the time of the delivery hereof, is seized in possession of a perfect and absolute estate, in fee simple, in the premises conveyed, free from condition, charge, right, or possibility of dower or other incumbrance; and that she and her heirs will, at any time hereafter, at the request and cost of the said Mary Resler, her heirs or assigns, execute and deliver any further reasonable conveyance, which may be necessary more fully to transfer the title to the premises before described to the said John Hooff, his heirs or assigns, according to the true intent and meaning hereof; and that she, her heirs, executors or administrators, shall and will, well and truly, pay the full amount of the aforesaid notes, amounting in all to one thousand two hundred and sixty-five dollars, and of the notes which may, from time to time, be given in renewal and continuance of the same, or of any one of them, with interest thereon, and all costs attending the same. And, lastly, that the said Mary Resler, and her heirs, the said premises before described, will warrant and for ever defend to the said John Hooff, his heirs and assigns, against the claims and demands of her, the said Mary Resler and her heirs and assigns, and all and every other person whomsoever. And the said John Hooff, for himself, his heirs, and assigns, doth hereby covenant with the said Mary Resler, and her heirs and assigns, and with the said Farmers' Bank of Alexandria, that he, the said John Hooff, and his heirs, will faithfully execute, and carry into full effect, the several trusts hereby created.

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In witness whereof, the parties to this indenture have hereunto set their hands and seals, the day and year first before written.

MARY RESLER, [SEAL.]
JOHN HOOFF, [SEAL.]

Signed, sealed, and delivered, in the presence of
LEWIS HOOFF,
J. F. WISE,
JOHN GIRD.

It is understood, between the contracting parties to the within deed, that no sale of the within conveyed property shall take place for three years from the date hereof.

MARY RESLER,
JOHN HOOFF.

Witness, LEWIS HOOFF,
JOHN GIRD,
JOHN F. WISE.

At an United States' circuit court of the District of Columbia, continued and held for the county of Alexandria, the 4th day of May, 1824, this deed of trust from Mary Resler to John Hooff, with a memorandum of an agreement thereon endorsed, was proved by the oaths of John Gird, Lewis Hooff, and John F. Wise, to be the act and deed of the said Mary Resler and John Hooff; and ordered to be recorded.

Teste: EDM. I. LEE, *C. C.*

Will of Jacob Resler.

ALEXANDRIA COUNTY, DISTRICT OF COLUMBIA, Dec. 5, 1803.

In the name of God. Amen. Be it remembered that I, Jacob Resler, being weak in body, but of sound and perfect mind and memory, blessed be Almighty God for the same, do make and publish this, my last will and testament, in manner and form following; that is to say: First, it is my wish that all my just debts and funeral expenses be paid out of my moveable estate; and, secondly, I give and bequeath unto my beloved wife, Mary Resler, the whole of my estate, both real and personal, during her widowhood, or, in other words, while she bears my name; but, in case my wife should choose to marry, it is my wish that the whole of my estate, both real and personal, be given to my beloved daughter, Eve Resler, and her heirs, for ever; and lastly, I do appoint my friend Alexander Smith, executor, and my beloved wife, Mary Resler, executrix, of this my last will and testament, revoking all former wills by me made. In witness whereof, I hereunto set my hand and seal—day and date first written. Will of Jacob Resler.

Signed, sealed, published, and declared by the above named Jocob Resler, to be his last will and testament, in the presence of us, who, at his request, and in his presence, have hereunto subscribed our names as witnesses to the same.

JACOB RESLER. [SEAL.]

JAMES DAVIDSON,
ALEX. SMITH.

At a session of the orphans' court for the county of Alexandria, the 30th day of April, 1804, this last will and testament of Jacob Resler, deceased, was proved by the oath of James Davidson, one of the subscribing witnesses thereto; and ordered to be certified.

Teste: CLEON MOORE, *Register.*

At a session of the orphans' court for the county of Alexandria, the 5th day of June, 1804, this last will and testament of Jacob Resler, deceased, was further proved by the oath of Alexander Smith; and the same ordered to be recorded.

Teste: CLEON MOORE, *Register.*

DISTRICT OF COLUMBIA, sct.

I, Alexander Moore, register of wills for the county of Alexandria, in the District of Columbia, do hereby certify that the foregoing is a true copy of the last will and testament of Jacob Resler, deceased, on record in my office. Given under my hand and official seal, this 22d day of August, 1827.

[L. S.] A. MOORE, *Reg. Wills.*

DISTRICT OF COLUMBIA, to wit.

I, Edmund I. Lee, clerk of the United States' circuit court of the District of Columbia, for the county of Alexandria, do hereby certify that the foregoing is a true transcript of the proceedings of the said court in the suit of the Farmers' Bank of Alexandria against John Hooff and others, with all things touching the same, so far as they now exist among the records of my office.

In testimony whereof, I have hereunto set my hand, and affixed the seal of the said court, this 2d day of January, A. D. 1832.

[L. S.] EDM. I. LEE, *C. C.*

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SUPREME COURT OF THE UNITED STATES.

No. 73.

WILLIAM YEATON ET AL., APPELLANTS,

VERSUS

DAVID LENOX ET AL.

ON APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE COUNTY OF ALEXANDRIA, DISTRICT OF COLUMBIA.

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DISTRICT OF COLUMBIA, to wit:

To David Lenox, Elias Boudinot, Robert Smith, James C. Fisher, Joseph Sims, Archibald McCall, Paschall Hollingsworth, John Stelle, Thomas M. Willing, Horace Binney, George Harrison, Abijah Hammond, William Bayard, and Oliver Wolcott, John Roberts, Richard M. Scott, trustee of Elisha Janney, and Elizabeth Wilson, and Robert I. Taylor, administratrix, and administrator of James Wilson and James Davidson, greeting:

You are hereby cited and admonished to appear at the Supreme Court of the United States, now holden at the city of Washington, being the present seat of the National Government, and which commenced its session on the second Monday in January last, to show cause, if any there be, why the decree of the United States' Circuit Court of the District of Columbia for the county of Alexandria, in the case of William Yeaton and others against David Lenox and others, should not be corrected, and why speedy justice should not be done to the parties in that behalf. Witness the honorable John Marshall, Chief Justice of the United States, this 9th day of March, 1832.

W. CRANCH.

Service: by leaving a copy with James Davidson, 13th March, 1832.

H. ASHTON,
Marshal.

DISTRICT OF COLUMBIA, sct.

Pleas before the honorable the Judges of the United States' Circuit Court of the District of Columbia for the county of Alexandria, at the court-house, in the town of Alexandria:

IN CHANCERY.

Title.

William Yeaton, Robert Young, John G. Ladd, John Tucker, Philip G. Marsteller, Cuthbert Powell, Richard Veitch & Com-

pany, Nathaniel Wattles & Company, Thomas Vowell, junior, and Ferdinand Marsteller, complainants,

against

David Lenox, Elias Boudinot, Robert Smith, James C. Fisher, Joseph Sims, Archibald McCall, Paul Leimen, Samuel Coates, Henry Pratt, George Fox, Paschall Hollingsworth, John Stelle, Thomas M. Willing, Horace Binney, George Harrison, Abijah Hammond, William Bayard, and Oliver Wolcott, John Roberts, Richard M. Scott, trustee of Elisha Janney, and Elizabeth Wilson, and Robert I. Taylor, administratrix and administrator of James Wilson, deceased, defendants.

Be it remembered that, heretofore, to wit, on the 23d day of July, 1813, came the complainants aforesaid, by Thomas Swann, esquire, their solicitor, and filed in the clerk's office of the said court a certain bill against the said defendants; which is in the words and figures following, to wit:

To the honorable the Circuit Court of the United States for the county of Alexandria:

Bill.

Humbly complaining, your orators, William Yeaton, Thomas Vowell, junior, William Brent, Augustine Newton, and David Ricketts, administrators of William Newton, deceased, executors of John G. Ladd, deceased, and Benjamin Shreve, show unto your honors, that your orators, with sundry other persons, entered into an association in the town of Alexandria, sometime previous to the year 1805, for the purpose of making insurances upon vessels and cargoes against sea and other usual marine risks; which association was denominated the Marine Insurance Association of Alexandria. That, while this association continued, that is to say, about the 26th day of June, 1804, James Wilson, of the town of Alexandria, now deceased, made an application to the said association for insurance upon a ship called the Governor Strong, on a voyage from Norfolk to Liverpool; and the said association agreed to make the said insurance to the amount of ten thousand dollars; and your orators separately subscribed the said policy for the sums respectively affixed to their names, as will more fully appear by a copy of the said policy of insurance herewith exhibited, and prayed to be taken as a part of this bill of complaint.

Your orators say, that, at the time the said insurance was made, the said ship Governor Strong was represented to be the property of the said James Wilson, but your orators afterwards understood that Alexander Henderson & Co., who had previously owned the said ship, had given a lien upon her in favor of the Branch Bank of the United States, held at Washington, to secure to the said bank a debt due from the said Alexander Henderson & Co. to the said bank, or had transferred the said ship to the said James Wilson to indemnify the said Wilson from any injury he might sustain in consequence of his having become endorser for the said Alexander Henderson & Co. to the said bank. Your orators never saw the

said transfer, nor do they know the precise terms of it; but they are well satisfied that the interest which the said James Wilson held in the said ship was for the benefit of the said Branch Bank, and was so understood by the said bank and the said James Wilson.

Your orators further show, that, some time after the said insurance had been effected, the said James Wilson informed the said Marine Insurance Association that the Governor Strong had sustained considerable injury in the progress of the voyage insured; and he claimed from the said association a considerable sum of money for the partial loss sustained in the said voyage; and he represented to the said association that the money to be paid belonged to the Bank of the United States, and that he wished to pay the same to the said bank. Your orators show that the said association was not satisfied with the evidence produced by the said James Wilson to prove the said loss; but, willing to accommodate him in his wishes, your orators agreed to furnish their promissory notes to him, to be passed by him to the said Branch Bank of the United States, but, upon the express condition that, if it should afterwards appear that they were not liable for the said partial loss, that then the money should be returned to them by the said bank. This the said Wilson readily agreed to, and the same was communicated to the bank, and was agreed to, as your orators always understood, by them. Your orators say, that, in pursuance of this understanding, they passed to the said James Wilson their several promissory notes bearing date about the 29th of May, 1805, and for the sums following, viz. the note of your orator, Robert Young, for the sum of $166 67; of your orator, William Yeaton, for $233 33; of your orator, Thomas Vowell, junior for $266 67; of your orator, William Brent, for $133 33; of your orator's intestate, William Newton, for $200; of your orator's testator, John G. Ladd, for $133 33; and of your orator, Benjamin Shreve, for $133 33; making altogether the sum of $1266 66. These notes were passed over to the said bank; and, when they became due, were paid by your orators to the said bank. Your orators have understood that the money, when received by the said bank, was not carried absolutely to the credit of the said Alexander Henderson & Co., but was held subject to the condition aforesaid, and only to be considered a payment in case your said orators should be finally liable to the payment of the same.

Your orators further show, that, upon further inquiry in regard to the said loss, they were satisfied that they were not liable to the payment of the same, and they determined to resist the said payment; but, before any suits were ever instituted to recover the same, James Wilson had departed this life, and his administrators were not inclined to take upon themselves the trouble or expense of the said suits; in consequence of which the said Branch Bank of the United States directed suits to be brought in the name of the said administrators, for their use, against your said orators, and the other members who had embarked in the said insurance; and the said suits were prosecuted and maintained at the expense of the said bank, and were finally decided in favor of your orators, as by reference to the records of this honorable court will more

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fully appear, and to which your orators, for greater certainty, refer. When this decision took place, your orators considered themselves entitled to the money which they had conditionally advanced as aforesaid to the said branch bank; and they claimed the same of the said bank, but they declined paying the same to your orators, stating that they had received the same as an absolute payment from the said James, and not upon the condition stated by your orators as aforesaid.

Your orators beg leave to state, that, before the suits were instituted against them as aforesaid, a correspondence took place between John Tucker, chairman of the said Marine Association, in behalf of your orators, and John P. Nan Vess, esq., president of of the said Branch Bank at Washington; which said correspondence is herewith exhibited, marked No. 1, 2, 2, 4, 5, 6, and 7, and which your orators pray may be made a part of this bill of complaint. Your orators beg leave particularly to refer to the letter of the said John P. Van Ness, marked No. 4, by which it will appear that the bank aforesaid did agree that, in case the award should be made in their favor, that the money which had been actually paid into the bank on account of the policy should be considered as a payment towards the said loss. Your orators do insist that this letter contains an acknowledgment that some money was paid into the said bank on account of the said policy, and that the same was not paid on account of James Wilson; and, if so, it follows that the payment was conditionally made, as stated by your orators, and your orators do charge that the same was so made; and they had reason to hope that the said bank would have returned to them the said moneys as soon as it was ascertained that your orators were not liable to the payment of the same; but in this hope your orators were disappointed, and your orators have now no prospect of obtaining the same but by resort to a court of justice.

Your orators say, that the charter of the Bank of the United States hath expired, and the said bank is no longer a body corporate; but, before the dissolution of the said bank, they duly transferred and made over to David Lenox, Elias Boudinot, Robert Smith, James C. Fisher, Joseph Sims, Archibald McCall, Paul Lieman, Samuel Coates, Henry Pratt, George Fox, Paschall Hollingsworth, John Stelle, Thomas M. Willing, Horace Binney, George Harrison, Abijah Hammond, William Bayard, and Oliver Matlock, whom your orators pray may be made defendants to this bill of complaint, all their right and interest in the moneys, debts, and effects belonging to the said bank, chargeable, however, with the payment of the debts due from the said bank, as by reference to the deeds of transfer, copies of which are herewith exhibited, will more fully and at large appear.

Your orators say, that the said defendants are not inhabitants of the District of Columbia, but reside out of the said District, but in the United States. Your orators are informed that there are large sums of money due to the said defendants, as trustees for the Bank of the United States aforesaid, from several persons in the

town of Alexandria, that is to say, from John Roberts and Richard M. Scott, trustee of Elisha Janney, both of whom your orators pray may be made defendants to this bill of complaint. Your orators also say, that they are informed and believe that Elizabeth Wilson and Robert I. Taylor, administrators of the said James Wilson, deceased, and who they pray may also be made defendants to this bill of complaint, have in their possession some moneys belonging to the estate of the said James Wilson, subject to the aforesaid claim of your said orators; but they do not consider themselves authorized to apply the same without the interposition of this honorable court.

In tender consideration whereof, and forasmuch as your orators are remediless in the premises by the strict rules of the common law, and cannot subject the moneys and effects of the said defendants, as trustees aforesaid, in the hands of the other defendants, or subject the money in the hands of the defendant Taylor to the payment of your orators' said claim, but by the interposition of this honorable court, where matters of this nature are properly cognizable; to the end, therefore, that the said defendants may true and perfect answer make to all and singular the premises as fully and particularly as if the same were herein again repeated and interrogated; and that the said defendants may be compelled to produce such of the books and papers of the said branch bank as may have relation to the payments made by your orators as aforesaid; and that this court my decree that the said defendants shall pay to your orators the moneys so advanced by your orators to the said bank as aforesaid, with such interest thereon as shall appear to be just; and that this court may make such other order and decree in the premises as to them shall seem consistent with equity and good conscience; may it please the court to grant to your orators the United States' most gracious writ of subpœna, &c.

SWANN, *for the Complainants.*

Whereupon, the following subpœna, with the memorandum thereon endorsed, did issue, to wit:

DISTRICT OF COLUMBIA, to wit:

Subpœna. [L. S.] *The United States of America to the Marshal of the District of Columbia,* greeting:

You are hereby commanded to summon David Lenox, Elias Boudinot, Robert Smith, James C. Fisher, Joseph Sims, Archibald McCall, Paul Leimen, Samuel Coates, Henry Pratt, George Fox, Paschall Hollingsworth, John Stelle, Thomas M Willing, Horace Binney, George Harrison, Abijah Hammond, William Bayard, and Oliver Wolcott, and John Roberts, and Richard M. Scott, trustee of Elisha Janney, and Elizabeth Wilson, and Robert I Taylor, administratrix and administrator of James Wilson, deceased, to appear before the judges of the circuit court of the District of Columbia for the county of Alexandria, at the courthouse of the said county, at the next court, to answer a bill in

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chancery, exhibited against them by William Yeaton, Robert Young, John G. Ladd, John Tucker, Philip G. Marsteller, Cuthbert Powell, Richard Veitch & Company, Nathaniel Wattles & Company, Thomas Vowell, junior, and Ferdinand Marsteller; and this they shall in no wise omit, under the penalty of three hundred and thirty-three dollars and thirty three cents: and have then there this writ. Witness the honorable William Cranch, Chief Judge of our said court, this twenty-third day of July, eighteen hundred and thirteen.

G. DENEALE, *Clk.*

Memorandum. The object of the bill, this day filed in this case, is to attach the debts and effects of the late Bank of the United States in the hands of the defendants, Roberts and Scott, to satisfy the claim in the bill mentioned, due from the said bank *to* the United States.

Teste:

G. DENEALE, *Clk.*

Upon which subpœna, the marshal made the following return, to wit: Return.

Executed on John Roberts, Robert I. Taylor, and service acknowledged as to E Wilson; and also executed on Richard M. Scott, the other defendants not found.

D. MINOR, *D. M.*,
For W. BOYD, *Marshal.*

Bill taken for confessed and set for decree.

At another day, to wit, at the rules held in the clerk's office of the said court for the month of October, 1816, (until which time this cause had been regularly continued,) came the complainants, by their solicitor; and, on their motion, their bill is taken for confessed, and set for decree.

Appearance of J. Davidson, and discharge of attachment v. Scott.

And at another day, to wit, at a court continued and held for the county aforesaid, the 23d day of April, 1818, (this cause having been continued at the two preceding terms,) James Davidson came into court, and undertook to perform any decree which the court may make against the late Bank of the United States; and thereupon the attachment against Richard M. Scott is discharged.

Order of publication.

And at another day, to wit, at a court continued and held for the county aforesaid, the 16th day of May, 1818, the defendants, David Lenox, Elias Boudinot, Robert Smith, James C. Fisher, Joseph Sims, Archibald McCall, Paul Leimen, Samuel Coates, Henry Pratt, George Fox, Paschall Hollingsworth, John Stelle, Thomas M. Willing, Horace Binney, George Harrison, Abijah Hammond, William Bayard, and Oliver Wolcott, not having entered their appearance, and given security according to the statute and the rules of this court; and it appearing to the satisfaction of the court, upon affidavit, that the said defendants are not inhabitants of this District, on motion of the said complainants, by their counsel, it is ordered that the said absent defendants do appear here on the first day of the next term, and enter their appearance to the suit, and give security for performing the decrees of

the court; and that the other defendants, John Roberts and Richard M Scott, do not pay away, convey, or secrete, the debts by them owing to, or the estate or effects in their hands belonging to, the late Bank of the United States, until the further order or decree of this court; and that a copy of this order be forthwith published for two months successively in one of the public newspapers published in this county, and that another copy be posted at the front door of the court-house of said county.

Referred to Master Commissioner.

And at another day, to wit, at a court continued and held for the District and county aforesaid, the 18th day of December, 1818, in this cause it was decreed and ordered, that Master Commissioner Auld do ascertain and state the amount of moneys received by the late Branch Bank of the United States at Washington from James Wilson, deceased, upon notes passed to the said James Wilson on account of insurance upon the ship called Governor Strong; as, also, any moneys paid by the said Robert I. Taylor, administrator of the said James Wilson, deceased, to the said bank on account of the insurance of the said ship; and report the same to this court.

And at another day, to wit, at a court continued and held for the District and county aforesaid, the 13th day of May, 1819, this suit was continued; and at a court continued and held for the said District and county, the 21st day of December, 1819, this suit was continued.

And at another day, to wit, at a court continued and held for the District and county aforesaid, the 29th day of May, 1820, the answer of James Davidson was filed; which is, by consent, received on behalf of David Lenox and others, president, directors, and stockholders of the late Bank of the United States; and general replication and issue: which answer is in the words and figures following, to wit:

WILLIAM YEATON & OTHERS, Complainants,
against
DAVID LENOX & OTHERS, Defendants. } *In Chancery.*

Answer of James Davidson.

Answer to said bill by James Davidson.

The Bank of the United States received, in January, 1806, sundry promissory notes from James Wilson, amounting to $2,134 04; which, when paid, were to be placed to the credit of Alexander Henderson & Co. on account of a loss by the underwriters. He believes there was some understanding at the time that, inasmuch as the loss or liability on account of the underwriters was uncertain, in case it should ultimately prove that they were not liable, that the notes, if not paid, should be returned; or, if paid, that the money paid for them should be refunded. He denies, positively, that any of the said notes were ever paid to the said bank; and the whole of said notes were delivered, on the 2d day of April, 1806, to Lewis Deblois, according to the order of John Tucker, the complainant, dated on the first day of that month. He admits that some notes were deposited on the 30th May, 1805, and

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payable on the 28th July, 1805, by James Wilson, to go, when paid, to the credit of Alexander Henderson & Co.; and that $1271 66 of said notes were received, and accordingly credited; but he has no recollection of any condition respecting these notes, such as the complainant states with respect to the notes received in January, 1806. But he denies that any other or further sum was paid by said Wilson, or by his administrator, to the credit of Alexander Henderson & Co.; nothing further appearing on the books of said bank. Further he saith not.

JAMES DAVIDSON,
On behalf of D. Lenox and others, lately President, and stockholders of the Bank of the U. States.

DISTRICT OF COLUMBIA, *County of Washington*, } to wit:

On this 27th day of May, 1820, James Davidson personally appeared before the subscriber, a justice of the peace in and for the county aforesaid, and made oath, on the Holy Evangelists of Almighty God, that the answer and statement above subscribed by him are true, as far as they are within his own knowledge; and that part, stated from the books of the late Bank of the United States and papers in his possession, he believes true. Sworn before

JOSEPH FORREST.

And at a court continued and held for the District and county aforesaid, the 31st day of May, 1820, this cause was continued.

And at another day, to wit, at a court continued and held for the District and county aforesaid, the first day of December, 1820, Master Commissioner Auld returned his report; which was ordered to be filed, and is in the words and figures following:

ALEXANDRIA COUNTY COURT:

WILLIAM YEATON AND OTHERS, Complainants,
against
DAVID LENOX AND OTHERS, Defendants. } *In Chancery.*

In this case, it is decreed and ordered, that Master Commissioner Auld do ascertain and state the amount of moneys received by the late Bank of the United States at Washington, from James Wilson, deceased, upon notes passed to the said James Wilson on account of insurance upon the ship, called Governor Strong; as, also, any moneys paid by Robert I. Taylor, administrator of the said James Wilson, deceased, to the said bank on account of the insurance of the said ship, and report the same to this court. Report of Master Commissioner.

A copy. Teste:

EDM. I. LEE, *C. C.*

COMMISSIONER'S OFFICE,
Alexandria, April 4, 1820.

The parties in the cause before mentioned, will please take notice, that, on Thursday, the 13th instant, at 10 o'clock in the fore-

noon, at my office in this place, I shall proceed to carry into effect the foregoing order; at which time and place they are required to attend with their statements and vouchers.

COLIN AULD, *M. C.*

A copy to be served on James Davidson, cashier of the late Branch Bank at Washington, who has in custody the books of that branch.

C. AULD, *M. C.*

A copy delivered, 7th April, to James Davidson, by John Bright, per his affidavit made before me.

C. AULD, *M. C.*

Postponed, by desire of Mr. Davidson, till the 24th instant.

AUGUST 10, 1820.

In order to enable the Commissioner to carry into effect the decree of the court, it will be requisite for Mr. James Davidson, (who has answered the bill on behalf of the defendants,) to designate the particular notes which were deposited on the 30th day of May, 1805; and, also, such of them as were paid and placed to the credit of Alexander Henderson and Company, and which amounted, in the aggregate, to the sum of $1271 and 66 cents, as stated in his said answer.

The complainants, in their bill, set forth specially that William Yeaton paid his note for $236 93; John G. Ladd for $135 47; Robert Young for $169 25; John Tucker for $169 25; Philip G. Marsteller for $101 55; Cuthbert Powell for $169 25; Richard Veitch & Company for $101 55; Nathaniel Wattles & Company for $169 27; Thomas Vowell, jr., for $270 80; and Marsteller & Young for $610 72. Mr. Davidson will, therefore, please state, as may appear from the bank books, which of these notes were deposited—which of them were actually collected—and to whom those uncollected were delivered, or what has become of them.

COLIN AULD, *M. C.*

Served, 19th September, 1820, on James Davidson, per affidavit of Joshua Harper filed.

OCTOBER 27, 1820.

To the honorable the Circuit Court of the United States, sitting in the county of Alexandria, in Chancery.

May it please your honors, pursuant to the order of your honorable court, a copy of which is hereunto prefixed, I appointed a day for carrying it into effect; but, at the desire of James Davidson, late cashier of the former Branch Bank of the United States at Washington, who appeared on behalf of the defendants, the business was postponed, from time to time, until this day, with consent of all parties.

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It appears that, on the 29th day of May, 1805, the complainants gave their notes to James Wilson, payable 60 days after date, and received from him his notes in lieu thereof, payable in 5 months, including the difference of interest. That the notes issued to James Wilson, as aforesaid, were, in part, deposited on the 30th May, 1805, in the late Branch Bank of the United States at Washington; and that the following were paid on the 31st day of July, 1805, when due to the said bank, viz.

Robert Young's for - - - - - -	$166 67,
William Yeaton's for - - - - -	233 33,
Thomas Vowell, junior's, for - - - -	266 67,
John G. Ladd's for - - - - -	133 33,
making together - - - - -	$800 00;

and which makes a part of the sum of $1271 66, stated in the answer of Mr. Davidson to have been received and passed to the credit of Alexander Henderson & Company.

It does not appear that any payment was ever made by the administrators of James Wilson, deceased, to the said bank on the account specified in the order; but it appears probable that the difference between the above sum of $800, and the sum carried to the credit of Alexander Henderson & Company, was received from Mr. Wilson for the same object. The documents A and B, herewith filed, and produced by Mr. Davidson, are referred to as connected with this case.

I find, accordingly, that the sum of $800 "has been received by the late Bank of the United States at Washington from James Wilson, deceased, upon notes passed to the said James Wilson on account of insurance upon the ship called Governor Strong," and paid to it on the 31st day of July, 1805, and passed to the credit of Alexander Henderson & Company by the said bank.

All which is humbly certified and submitted.

COLIN AULD, *M. C.*

And at a court continued and held for the District and county aforesaid, the 8th day of January, 1821, this cause was continued.

And at a court continued and held for the District and county aforesaid, the 12th day of June, 1821, this cause was continued.

And at another day, to wit, at a court continued and held for the District and county aforesaid, the 5th day of January, 1822, came the parties aforesaid, by their counsel, and general dedimusses are awarded either party to take depositions; and the cause is continued. General dedimusses awarded to take depositions.

And at a court continued and held for the said District and county, the 12th day of June, 1822, this cause was continued.

And at a court continued and held for the said District and county, the 7th day of May, 1823, this cause was continued.

And at a court continued and held for the said District and county, the first day of July, 1824, this cause was continued.

And at another day, to wit, at a court continued and held for the District and county aforesaid, the 16th day of December, 1824, Set for hearing.

by consent, this cause was set for hearing on the bill, answers, depositions, and exhibits; and continued.

Leave to make James Davidson a party, and to amend bill.

And at another day, to wit, at a court continued and held for the District and county aforesaid, the 30th day of April, 1825, came the parties aforesaid, by their counsel, and this cause is continued, and, by consent of parties, sent to the rules; and leave is granted to the complainants to make James Davidson a party to this suit, and to amend their bill.

And at the rules held in the clerk's office of the said court for the months of May, June, and July, this cause was continued.

And at another day, to wit, at the rules held in the clerk's office of the said court for the month of August, in the same year, came the defendants, by their counsel; and day is thereupon given the complainants, until the next rules, to file his amended bill; and the same day is given the defendants, there, &c.

And at another day, to wit, at the rules held in the clerk's office for the month of September, in the same year, came the complainants, by their solicitor, and filed an amended bill, which is in the words and figures following:

VOWELL AND OTHERS,
against
LENOX AND OTHERS.

Amended bill.

The court having granted to the complainants leave to amend their bill, and to make James Davidson a party to this cause, the said complainants, by way of amendment to their said bill, beg leave to state—

That the said defendant Davidson was cashier of the late Bank of the United States, and continued as such until the expiration of the charter of the said bank; and, ever since the expiration of the said charter, has acted as the agent of the trustees of the said bank.

Your complainants have understood that the books and papers, in relation to the affairs of the Office of Discount and Deposite of the said bank in Washington, were left with the said defendant Davidson, and are now in the possession of the said Davidson.

Your complainants do therefore call upon the said defendant Davidson to produce the books and papers of the said bank, in order that the complainants may have the benefit of the same upon the trial of their case; and the complainants do require of the said Davidson to look upon the exhibits filed by the complainants with their original bill, and declare whether they are not true copies of the original letters sent to the said office in Washington; and, if not, which of them are not, and in what respect are they incorrect or untrue.

The defendant Davidson is also required to state whether the ship Governor Strong was not transferred by Alexander Henderson & Co. to the late Office of Discount and Deposite in Washington, as a security for the debt of the said firm of Henderson & Co.; or in what way, and upon what amount, was the said transfer made? and when was the said transfer made? and when was the policy of insurance upon the said ship transferred or delivered to the said bank? If the said ship was ever transferred to the said

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bank, or any lien, of any kind, ever given to the said bank, the said defendant is requested to annex to his answer the said original transfer, or a true copy of the same. The said defendant is also required to look at exhibit No. 1, and to state whether the said exhibit is not a true copy of the original letter; and whether James Wilson was not, at the time of the date of that letter, dead; and whether the notes in that exhibit referred to ever were sent by James Wilson to the said bank.

The defendant is also required to state whether he was not the cashier of the office at Washington at the time the transactions above alluded to took place; and has he not been, and is he not now, the agent for the trustees of the late bank, so far as it regards the affairs of the said office at Washington?

The defendant is requested to state in what way the notes were deposited in bank, as stated in his former answer, on the 30th of May, 1805: were they sent by James Wilson in a letter to the bank? and, if so, the defendant is required to produce the letter which so enclosed them, or a copy of the same, and the entry made upon the books of the bank in relation to the said notes.

The defendant, in his former answer, states that there was an understanding, at the time of the deposite of some notes in the said bank by James Wilson, that, in case the underwriters should not be ultimately liable, the money which might have been paid upon them should be refunded. The defendant is again required to state upon what notes this understanding did take place: were they the notes sent by James Wilson in his life time? and, if so, did he ever send any other notes than those hereinbefore mentioned of the 30th of May, 1805?

The defendant is required to answer the several matters and things, in order that justice may be done in the premises.

THO. SWANN,
Attorney for the Complainants.

And at another day, to wit, at the rules held for the month of November, (this cause having been continued at the last rules,) came the complainants aforesaid, by their said solicitor, and day is thereupon given the defendants until the next rules, to answer the complainants' amended bill; and the same day is given the complainants, there, &c.

And at the rules held in the clerk's office of the said court for the month of April, in the year 1826, (until which time this cause had been regularly continued,) came the complainants, by their solicitor; and, on their motion, a subpœna is awarded against James Davidson to answer their amended bill; which subpœna, with the marshal's return thereon, is in the words and figures following:

DISTRICT OF COLUMBIA, to wit:

Subpœna ad Resp.

[L. S.] *The United States of America to the Marshal of the District of Columbia*, greeting:

You are hereby commanded to summon James Davidson to appear before the honorable the judges of the circuit court of the

District of Columbia for the county of Alexandria, at the court-house of said county, in the town of Alexandria, at the next court, to answer an amended bill in chancery exhibited against him by William Yeaton and Thomas Vowell and others; and this he shall in no wise omit, under the penalty of $333 33; and have then there this writ. Witness, the honorable William Cranch, Chief Judge of our said court, this 26th day of March, 1826.

EDM. I. LEE, *C. C.*

Summoned James Davidson.

T. RINGGOLD, *Marshal.*

Amended bill taken for confessed, and cause set for decree.

And at another day, to wit, at rules held in the clerk's office of the said court for the month of September, 1826, on the complainants' motion, their amended bill is taken for confessed, and the cause is set for decree on the bills, answer, depositions, and exhibits filed.

Suit abates as to Young, Ladd, Tucker, & Marsteller.

And now here, at this day, to wit, at a court continued and held for the District and county aforesaid, the second day of December, 1829, it is ordered that this suit abate as to the complainants, Robert Young, John G. Ladd, John Tucker, and Ferdinand Marsteller, by their deaths; and the answer of James Davidson, on behalf of David Lenox and others, trustees of the late Bank of the United States, to the amended bill of the complainants, being this day filed, the order taking the said amended bill for confessed is set aside, and the complainants' reply generally to the said answer; and, by consent of parties, this suit being set for decree as to the said Lenox and others, trustees of the said bank, on the bills, answers, exhibits, and depositions, and on the account taken by Master Commissioner Auld, and now coming on to be heard, it is by the court, on consideration thereof, decreed that the complainants' bill be dismissed with costs as to the said David Lenox and others, trustees as aforesaid; and as to the defendant Elizabeth Wilson, this suit is abated by her death. And the complainants admitting that the said Robert I. Taylor has fully administered the assets of the said James Wilson which came to his hands, this suit is dismissed, as to him, without prejudice to any future suit or action against him by the complainants; and the said Robert I. Taylor, on his part, agrees that complainants' admission of a full administration, as aforesaid, shall not be used against them in any future action, but shall be limited to the proceedings in this case only.

Answer to amended bill filed.

Complainants' bill dismissed with costs.

Agreement.

Appeal granted.

The complainants prayed an appeal to the next Supreme Court of the United States, which is granted.

The aforementioned answer of James Davidson to the amended bill of the complainants, is in the words and figures following, to wit:

Answer of J. Davidson to amended bill.

The answer of James Davidson to the amended bill of William Yeaton and others, against David Lenox and others.

This respondent says, that he was cashier of the Office of Discount and Deposite of the late Bank of the United States at Wash-

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ington, from the establishment of the said office until the termination of the charter of the said bank, and has since retained in his possession the books and papers of the said office, and acted as its agent in closing its business; and is ready to produce such books and papers as the complainants may require, and the court may direct to be produced.

That this respondent herewith exhibits, marked No. 1, the original letter of which the complainants' exhibit No. 1 purports to be a copy: that the complainants' exhibit No. 2 is in the handwriting of Joseph Carleton, president of the said office at the time it bears date: and his exhibits No. 4, 6, and 7, are in the handwriting of John P. Van Ness, who was president of the said office at the periods they bear date. That this respondont has no knowledge or information as to exhibits No. 3 and 5, having seen no letters amongst the papers of the office corresponding with them. That the ship Governor Strong never was transferred by Alexander Henderson & Co. to the said bank, but was transferred by the administrator and administratrix of James Wilson, to secure the payment of a debt due from Alexander Henderson & Co. to the said bank, under the endorsement of the said Wilson. That this respondent cannot undertake to say on what precise day the transfer was made; but is satisfied it must have been between the 25th of September and the end of October, 1805. That he has no recollection of the time the policy of insurance on the Governor Strong was transferred to said bank. That this respondent has never seen, to his recollection, the deed or instrument by which the said ship was transferred, and has no such paper in his possession. That this respondent has been informed and believes that James Wilson died on the 9th day of July, 1805.

That, in relation to the notes of Robert Young and others, deposited by James Wilson on the 30th of May, 1805, to go, when paid, to the credit of Alexander Henderson & Company, this respondent has no further information than is contained in his answer to the complainants' original bill. He does not recollect in what manner they were transmitted to the bank, nor whether they were accompanied by any letter: no such letter is now in his possession. That no entry was made on the books of the said bank in relation to said notes, except that they were to go, when paid, to the credit of Alexander Henderson & Company, to whose credit such of them as were paid were carried.

That, in this respondent's former answer, he stated that the Bank of the United States had received, in January, 1806, sundry promissory notes from James Wilson, amounting to $2,134 04; which, when paid, were to be placed to the credit of Alexander Henderson & Co. on account of a loss by the underwriters; and that he believes there was some understanding, at that time, that, inasmuch as the loss or liability on account of the underwriters was uncertain, in case it should ultimately prove that they were not liable, the said notes, if not paid, should be returned; or, if paid, the money paid for them should be refunded. That this respondent has since discovered, from reference to the letter accompanying the said notes, (which is hereinbefore referred to,

and exhibited as the original letter of which the complainants' exhibit No. 1 purports to be a copy,) that he was in error in the said statement; and that the said notes were transmitted by John Tucker, chairman of the Marine Insurance Association. For the purpose for which they were transmitted, this respondent refers to the said letter. That, as stated in his former answer, no condition or agreement to return the notes, or refund the money which might be paid on them, was annexed to the notes deposited on the 30th of May, 1805. That this respondent knows of no deposite or transfer of notes by the said James Wilson on account of the said debt of Alexander Henderson & Co., other than those deposited on the 30th of May, 1805. That the notes transmitted by the said John Tucker in January, 1806, were delivered, by his order, to Lewis Deblois on the 2d day of April, 1806. The order and receipts this respondent herewith exhibits, marked No. 2.

JAMES DAVIDSON.

WASHINGTON COUNTY, *District of Columbia.*

This day James Davidson appeared before me, a justice of the county aforesaid, and made oath that the matters in the foregoing answer, stated as of his own knowledge, are true; and all others he believes to be true.

Given under my hand, this twenty-second day of April, 1828.

RICHMOND JOHNSON, *J. P.*

Order of Supreme Court U. S. dismissing appeal filed.

And afterwards, to wit, at a court continued and held for the District and county aforesaid, the 23d day of April, 1831, the defendants, David Lenox and others, brought into court a certified copy of an order of the Supreme Court of the United States, dismissing the appeal heretofore taken from the decree of this court in favor of the defendants; which, on their motion, is ordered to be filed.

EXHIBITS.

No. 1.

Correspondence between Chairman of the Insurance Association and the President of the Branch U. S. Bank, Washington.

ALEXANDRIA, 22*d January*, 1806.

GENTLEMEN: At the request of the Marine Insurance Association of Alexandria, I take the liberty to enclose sundry notes given *by Mr. James Wilson on certain conditions, as follows*, viz.

The subscribers, on a policy of insurance on the ship Governor Strong from hence to Liverpool, agreed to accommodate Mr. Wilson with their several notes, payable in sixty days, for the purpose of making a payment to your bank in part of the debt due by A. Henderson & Co., for the security of which a lien on the ship Governor Strong had been given; which notes were granted to him in part of an average loss *then supposed* to have taken place on said ship at Liverpool, but the want of some papers prevented any regular claim being made on the office. At the same time, they received the enclosed notes from Mr. Wilson

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payable in five months, provided the loss on the Governor Strong was not within the policy of insurance, and satisfactory proof produced within that time five months. The protest and other documents have come to hand since the death of Mr. Wilson. By the former it appears that the damage which the ship sustained was two days after her arrival at Liverpool; and the policy provides for her safe arrival twenty-four hours, and no more; consequently the underwriters are not bound to pay the loss. Under these circumstances, the subscribers on that policy submit to your consideration whether you will refund the amount of those notes that Mr. W. made over to you in payment on the above stipulations.

James Wilson's notes dated 29th May, 1805, payable to Marsteller & Young, (Wm. Yeaton,)	$610 72
to William Yeaton	236 93
to R. Young	169 25
to J. G. Ladd	135 47
to T. Tucker	169 25
to P. G. Marsteller	101 55
to C. Powell	169 25
to R. Veitch & Co.	101 55
to N. Wattles & Co.	169 27
to Thomas Vowell, junior,	270 80
	2,134 04
Cash paid on account of G. Gilpin	$132 52
J. Dean	133 33
A. Smith & Son	116 67
Janney & Patton	71 01
R. B. Jamieson	133 33
Discount	15 86
	610 72
	2,744 76
James Wilson's own note for	588 57
	$3,333 33

No. 2.

OFFICE OF DISCOUNT AND DEPOSITE,
Washington, February 12th, 1806.

SIR: I am now instructed to inform you, in reply to your letter of the 28th ultimo, that it is the unanimous opinion of this board, that the underwriters upon the policy of insurance on the ship Governor Strong, from Norfolk to Liverpool, are liable to the assured and his assigns for a just average of the loss and damages which the said ship sustained in proceeding into the aforesaid port

of Liverpool; but, as a difference of opinion seems to exist between the parties interested in this insurance, the board have no objection to refer the matter in dispute to two indifferent persons—one to be chosen by the board, the other by the underwriters, with power to choose a third person in case they cannot agree; the determination of any two whereof to be binding and obligatory on the said parties. Being,

Very respectfully, sir,
Your ob't humble serv't,
JOS. CARLETON,
President.

JOHN TUCKER, Esq.,
Chairman of the Marine I. Association,
Alexandria.

No. 3.

ALEXANDRIA, 18*th February*, 1806.

SIR: Your letter of the 12th instant, respecting the insurance on the ship Governor Strong, was received and laid before the underwriters on that day, who have agreed to refer the matter in dispute to two indifferent persons, as proposed by your board. If those two cannot agree, they are to choose a third person: the determination of any two of them shall be binding and obligatory on the said parties. It is understood by the parties that, if the award should be in favor of the bank, that the sum of dollars which was paid to Mr. Wilson on account of said policy, shall be considered a part payment of said loss; and, should the award be in favor of the underwriters, that the bank in that case will refund the amount of sundry notes given by Mr. James Wilson for that purpose, agreeable to my last of the 22d ultimo, enclosing the said notes. The writers on the policy of the Governor Strong have appointed William Hodgson, esq., on their part.

Respectfully, I remain, sir,
Your obedient servant,
JOHN TUCKER,
Chairman M. I. A.

JOSEPH CARLETON, Esq.

No. 4.

OFFICE OF DISCOUNT AND DEPOSITE,
Washington, March 12th, 1806.

SIR: Yours of the 12th ultimo to the late president of this office, agreeing on behalf of the Marine Insurance Association to a proposed reference of the dispute between us respecting the insurance on the ship Governor Strong, was duly received; and we feel gratified with the prospect of a discussion and termination of that difference in a manner the least disagreeable to both parties. For the purpose of effectuating this desirable object, we have, on our part, appointed Mr. John Laird; but, owing to the delicate

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state of his health, we fear he will not be able to attend at Alexandria. It would therefore be an accommodation to us, and we hope not inconvenient to you, to have the meeting of the referees in this city or Georgetown; upon which point you will please to advise us.

We agree that, in case the award be in our favor, whatever sum was actually paid into the bank *on account* of the *policy*, shall be considered a part payment of the loss.

With respect, I am, sir, your
Very obedient servant,
JOHN P. VAN NESS,
Prest. of Off. Dis. and Deposite, Washington.

Mr. JOHN TUCKER.

No. 5.

ALEXANDRIA, 26*th March*, 1806.

SIR: Yours of the 12th instant I have received, and laid before the subscribers on the policy of the ship Governor Strong, who are in favor of an arbitration in Alexandria, as the papers are here, and such evidence as can be produced is also here: it would be difficult, on their part, to get persons to attend at Georgetown or Washington. The terms on which they will arbitrate were stated in my letter to Mr Carleton of the 18th ultimo, as follows:

"*If the award should be in favor of the bank, that the amount paid to Mr. James Wilson shall be considered a part payment of said loss;*" and, if in favor of the Marine Association, that the bank, in that case, will refund the amount paid to them by Mr. James Wilson, (in sundry notes,) on account of the ship Governor Strong, together with his note endorsed by Richard Veitch & Co. for account of said policy of insurance. The Marine Insurance Associaton are of opinion that some evidence may be obtained at Liverpool, that would be necessary in settling the loss on the Governor Strong, if admitted on the part of the bank. They do not, however, wish to procrastinate by this insinuation, but merely make the proposal for the consideration of your board; and remain,

Respectfully, dear sir,
Your obedient servant,
JOHN TUCKER,
Chairman Mar. Ins. Association.

JOHN P. VAN NESS, Esq.

N. B. Wm. Hodgson, esq., who was named on the part of the office, will not serve.

Under the 28th January, enclosed sundry notes given by Mr. J. Wilson, dated 29th May last, and payable in five months, say ten notes, as per list of the above date, amounting to $2,134 04, which you will please return by Mr. Deblois; and oblige

Yours, &c.
J. T.

No. 6.

WASHINGTON, *April 6th*, 1806.

SIR: Yours of the 26th ultimo is received, and has been submitted to the direction of our Office of Discount and Deposite. The advantage, to both parties, of having the most competent arbitrators to decide on our difference relative to the ship Governor Strong, we hoped would have outweighed any trifling inconvenience which might arise from a transmission of evidence (consisting chiefly, it is presumed, of papers) from Alexandria to this vicinity. It was, therefore, that we nominated Mr. Laird, although the state of his health we found would prevent his attendance at the former place. The place of meeting, however, it seems will not be a material point between us, as you repeat certain terms on which only it is understood your association will arbitrate; in answer to which, I am instructed to inform you that our office cannot submit to any *conditional* arbitration. We would, indeed, for obvious reasons, have preferred an arbitration in this case, but think it unreasonable that we should be, as we certainly are not, bound to any consequences not legally resulting from the decision of such a tribunal; more particularly since there is at hand another remedy to which, however, we regret the necessity of resorting.

The notes, for which you wrote, have been delivered to Mr. Deblois, and doubtless received by yourself.

With respect, I am, sir,
Your very humble serv't,
JOHN P. VAN NESS,
Pres't Office of Discount & Deposite,
Washington.

To JNO. TUCKER, Esq., *Chairman of*
Mar. Ins. Association.

No. 7.

April 27th, 1806.

SIR: According to your desire, I communicated to the directors of the Office of Discount and Deposite in this place, at their first meeting succeeding our interview, the explanation you was so obliging as to give me of the ideas of the Marine Insurance Association respecting our difference upon the subject of the Governor Strong, and the terms on which you propose an arbitration. They appear to have understood the latter as they were intended, although we supposed they might have been misapprehended. The conclusion is, as before, that, although they would have preferred a decision in the least disagreeable mode, they cannot, in justice to themselves, submit to the conditions you offer.

With respect, sir, your
Obd't and very humble serv't,
JOHN P. VAN NESS,
Pres't of Off. Dis. and Dep.,
Washington.

JOHN TUCKER, Esq., *Chairman Mar.*
Ins. Association, Alexandria.

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$266 67. ALEXANDRIA, 29*th May*, 1805.

Note. Sixty days after date, I promise to pay Mr. Jas. Wilson, or order, two hundred and sixty six dollars and sixty-seven cents, value received, payable at the Office of Discount and Deposite, Washington.

THOS. VOWELL, Jr.

(Endorsed—James Wilson.)

No. 350.

Marine Insurance Association of Alexandria.

Policy of insurance. "Whereas, James Wilson, as well in his own name as for and in [VESSEL] the name and names of all and every other person or persons to whom the same doth, may, or shall appertain, in part or in the whole, do make assurance, and cause himself and them, and every of them, to be insured, lost or not lost, at and from Norfolk to Liverpool, upon the body, tackle, apparel, ordnance, munition, artillery, boat, and other furniture, of the good ship called the Governor Strong, whereof is master for this present voyage Clarke or whosoever else shall go for master in the said vessel, or by whatsoever other name or names the said vessel, or the master thereof, is or shall be named or called; beginning the adventure upon the said vessel, tackle, apparel, &c., at and from Norfolk aforesaid, and so shall continue and endure until the said vessel be safely arrived at Liverpool aforesaid, and until she be moored twenty and four hours in good safety. And it shall and may be lawful for the said vessel, in her voyage, to proceed and sail to, touch and stay at, any port or places, if thereunto obliged by stress of weather or other unavoidable accident, without prejudice to this insurance. The said vessel, tackle, &c., for so much as concerns the assured, by agreement made between the assured and assurers in this policy, are and shall be valued at ten thousand dollars, without any further amount to be given by the assured to the assurers, or any of them, for the same. Touching the adventures and perils which we, the assurers, are contented to bear and take upon us in this voyage, they are of the seas, men of war, fires, enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart, surprisals, takings at sea, arrests, restraints and detainments of all kings, princes, and people, of what nation, condition, or quality soever, barratry of the master and mariners, and all other perils, losses, and misfortunes, which have or shall come to the hurt, detriment, or damage of the said vessel, or any part thereof. And, in case of any loss or misfortune, it shall be lawful to and for the assured, his factors, servants, and assigns, (and the assured, on their part, agree and engage, by themselves, their factors, servants, or assigns,) to sue, labor, and travel for, in, and about the defence, safeguard, and recovery of the said vessel or any part thereof, without prejudice to this insurance; to the charges whereof we, the assurers, will contribute, each one according to the rate and quantity of this sum herein insured. And it is agreed by us, the assurers, that this writing or policy of insurance

shall be of as much force and effect as the surest writing or policy of assurance heretofore made in any of the United States of America or elsewhere. And so we, the assurers, are contented, and do hereby promise and bind ourselves, each one for his own part, our heirs, executors, and goods, to the assured, his executors, administrators, and assigns, for the true performance of the premises, confessing ourselves paid the consideration due unto us for this assurance by the said assured, or their assigns, at and after the rate of three per cent. And, in case of loss, the assured is to abate two per cent.; such loss to be paid in sixty days after proof and adjustment thereof—the amount of the note given for premium, if unpaid, being first deducted. And it is agreed that, if any dispute shall arise relating to a loss on this policy, it shall be referred to two indifferent persons, one to be chosen by the assured, the other by the assurer or assurers, who shall have full power to adjust the same; but, in case they cannot agree, then those two persons shall choose a third, and any two of them agreeing, their determination shall be obligatory on both parties. But it is understood and agreed to, by and between the insurers and insured, and all parties to these presents, that any loss which may arise under this policy shall be paid by the persons insuring, in proportion to the sums by them respectively subscribed; and that no responsibility shall attach on any such person, in any event, beyond his said proportion.

In witness whereof, we, the assurers, have subscribed our names and sums insured, in Alexandria, the twenty-sixth day of June, one thousand eight hundred and four.

Memorandum. It is agreed, by and between the assured and assurers, that no loss shall be paid on any average under five per cent., unless the said average be general.

If the above vessel, after a regular survey, shall be condemned for being unsound or rotten, the underwriters shall not be bound to pay their subscriptions on this policy. It is also agreed between the assured and assurers that, in all cases of return premium, one-half per cent. upon the sum insured is to be retained by the insurers; and it is mutually agreed by the parties to this policy that no part of the premium shall be returned or abated on account of any deviation which shall be made by the owners or their factors from the present voyage. Warranted by the assured free from any charge, damage, or loss, which may arise in consequence of seizure or detention of the property for or on account of illicit or prohibited trade. And should the said ship be foundered, or not heard of within twelve months from the time she leaves her last port, then she shall be deemed a loss; which the underwriters engage to pay without further delay.

$10,000. Ten thousand dollars.

500, Robert Young, five hundred dollars;

500, James Wilson, five hundred dollars;

450, Janney & Patton, by James Wilson, four hundred and fifty dollars;

500, W. Yeaton, five hundred dollars;

500, Cuthbert Powell, five hundred dollars;

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300, R. Veitch & Co., three hundred dollars;
400, Benj. Shreve, by R. Veitch, four hundred dollars;
400, Nathaniel Wattles, four hundred dollars;
500, Phineas Janney, five hundred dollars;
500, Wm. Oxley, five hundred dollars;
400, R. B. Jamesson, four hundred dollars;
500, John Tucker, five hundred dollars;
400, Wm. Brent, by Robert Young, four hundred dollars;
300, Philip G. Marsteller, three hundred dollars;
350, Alexander Smith & Son, three hundred and fifty dollars;
400, John G. Ladd, four hundred dollars;
600, Thos. Vowell, Jr., six hundred dollars;
400, George Griffin, four hundred dollars;
200, W. Yeaton, two hundred dollars;
100, Nathaniel Wattles, one hundred dollars;
200, Thos. Vowell, jr., two hundred dollars.
200, Phineas Janney, two hundred dollars;
200, James Wilson, two hundred dollars;
600, William Newton & Jno. Mills, jr., six hundred dollars;
400, Joseph Dean, four hundred dollars;
200, Samuel Harper, two hundred dollars.

$10,000.

A.

The following notes were deposited on the 30th May, 1805, by James Wilson, to go, when paid, to the credit of Alexander Henderson & Co., viz. Notes deposited May 30, 1805.

Robert Young's, paid	31st July,	1805,	for	- -	$166 67
William Yeaton's,	do.	do.	"	- -	233 33
Thomas Vowell, jr.,	do.	do.	"	- -	266 67
William Brent,	do.	do.	"	- -	133 33
William Newton,	do.	do.	"	- -	200 00
John G. Ladd,	do.	do.	"	- -	133 33
Benj. Shreve, jr.,	do.	do.	"	- -	133 33
					$1,266 66
William Oxley's, protested, not paid				- - -	166 67
James Wilson,	do.	do.		- - -	933 34
					2,366 67
Not paid - - - - - - - - -					1,095 01
					1,271 66

B.

Notes deposited 22d Jan. 1806.

A list of James Wilson's notes sent to Jos. Carleton, esquire, 22d January, 1806.

Payable to	Marsteller & Young - - - - -	$610 72
"	William Yeaton - - - - -	236 93
"	Robert Young - - - - -	169 25
"	John G. Ladd - - - - -	135 47
"	John Tucker - - - - -	169 25
"	Philip G. Marsteller - - - -	101 55
"	Cuthbert Powell - - - -	169 25
"	Richard Veitch & Co. - - - -	101 55
"	Nathaniel Wattles & Co. - - -	169 27
"	Thomas Vowell, jun., - - - -	270 80
		$2,134 04

ALEXANDRIA, 1*st April*, 1806.

Order for notes, and receipt.

DEAR SIR: Be pleased to request Mr. Van Ness to deliver to you the above notes; which you will have the goodness to return to

Your obliged servant,
JOHN TUCKER,
Chairman M. I. A.

LEWIS DEBLOIS, Esq.

(Endorsed—) Received the within described notes from James Davidson, jr., cashier, April 2, 1806.

LEWIS DEBLOIS.

DEPOSITIONS.

UNITED STATES OF AMERICA, *Commonwealth of Massachusetts, Suffolk, ss.*

First deposition of L. Deblois.

CITY OF BOSTON, *June* 3, 1824.

I, Samuel Blagge, notary public, and a justice of the peace and quorum, by legal authority appointed and sworn, and dwelling in Boston aforesaid, make known to all whom it may concern, that, on the day and year above written, personally appeared before me, the said notary, Lewis Deblois, who, after being duly examined and cautioned according to law, did, on his oath, declare to the truth of the following answers to the annexed interrogatories, put to him by complainants.

To the first interrogatory, he answers—I was.

To the second, he answers—I recollect that Alexander Henderson was indebted to the Branch Bank of the United States, at the city of Washington, in the years 1805 and 1806, and that James Wilson was his endorser.

To the third, he answers—I believe there was a policy of insurance on the ship Governor Strong, assigned to the bank as security for the debt alluded to in the second interrogatory.

To the fourth, he answers—That the said policies were made over to the bank as collateral security for said Henderson's debt.

To the fifth, he answers—There were notes of Robert Young, William Yeaton, Thomas Vowell, John Tucker, and others, paid into the bank by James Wilson. Those gentlemen, I understood, were underwriters on the policy upon the ship Governor Strong.

To the sixth, he answers—I believe they were.

To the seventh, he answers—I believe there was an agreement made by the bank to return the amount received from the notes deposited, if the underwriters were not liable for the loss.

To the eighth, he answers—I believe the notes were given to Mr. Wilson, with an understanding to that effect; at least, I was so informed at the time.

To the ninth, he answers—I do not, to the best of my recollection, know any thing more.

The said Lewis Deblois being again examined, did, on his oath, declare to the truth of the following answers to the interrogatories put to him by the respondents, which are hereunto annexed.

To the first interrogatory, he answers—That I never examined the books of the bank in relation to the matter stated in this interrogatory. Of course I have no knowledge of the subject.

To the second interrogatory—I answer in the negative.

LEWIS DEBLOIS.

Sworn this third day of June, 1824; and, in testimony whereof, I have hereunto set my hand, and affixed my seal of office, at Boston aforesaid.

[SEAL.]

S. BLAGGE,
Notary Public, and J. Peace and Quorum.

Interrogatories referred to in the foregoing Deposition.

By complainants

1. Were you a director of the Branch Bank of the United States at Washington, in the years 1805 and 1806?

2 Do you recollect any thing of a debt due to said bank by Alexander Henderson & Co., and that James Wilson, of Alexandria, was also liable to said bank, either as endorser or security for said debt?

3. Do you recollect that, in order to secure said debt, there was a lien given upon a ship called the Governor Strong, either by Henderson & Co. to the bank, or to Wilson, or by said Wilson to the bank?

4. Do you recollect the circumstances of an insurance made upon the ship Governor Strong by said Wilson, and that the policy was placed by him in possession of the said bank at Washington, as collateral security for said debt?

5. Have you any recollection of certain notes of Robert Young, William Yeaton, Thomas Vowell, John Tucker, and others, being, in the Spring of 1805, placed in said bank by James Wlson; and whether said notes were given by the same persons who had subscribed the policy upon the ship Governor Strong?

6. Do you know whether their notes were deposited in bank on account of that policy?

7. Do you know whether there was any understanding or agreement with the bank, at the time they were so deposited, that, in case it should afterwards appear the underwriters were not liable for any loss under the policy, the notes should be returned, or any money paid on them should be refunded?

8. Do you know whether any such arrangement or agreement was made between Wilson and the underwriters when they gave said notes, and whether the same was made known to the bank or directors at the time the notes were deposited with them?

9. Do you know of any other matter or circumstance in relation to the transaction alluded to, and touching the interest of said bank, or of said Wilson, or of any of the parties to the said notes? If so, please state the same fully.

Respondents' interrogatories.

1. Was there any arrangement between James Wilson, deceased, and the Office of Discount and Deposite of the late Bank of the United States at Washington; or between the underwriters on the ship Governor Strong and the said office, in relation to the payment of the notes advanced by the said underwriters on account of the loss of said ship, differing in substance from the arrangement which is shown by the books and correspondence of the said bank and its officers with the parties aforesaid? And, if you know of any such different arrangement, state from what source your knowledge is derived.

2. Were you a member of the insurance association by whom the policy on the Governor Strong, at the time of her loss, was subscribed? and have you any interest in the event of this suit?

Respondents except to the answers to the 3d, 6th, 7th, and 8th of the complainants' interrogatories, because they are uncertain, and express the *belief* of the witness founded, most probably, on the complainants' own statements, and not any knowledge of facts made at the trial.

R. I. TAYLOR.

Second deposition of L. Deblois.

Interrogatories stated to Lewis Deblois, of the city of Boston, in the commonwealth of Massachusetts, by Samuel Blagge, notary public for the county of Suffolk, in said commonwealth, and a justice of the peace and quorum for said county, to be used in the case of Yeaton and others vs the Bank of the United States.

Interrogatories by Complainant.

First. Were you a director of the Branch Bank of the United States at Washington, in the years 1805 and 1806?

Answer. I was.

Second. Do you recollect any thing of a debt due to said bank by Alexander Henderson & Co, and that James Wilson, of Alexandria, was also liable to said bank, either as endorser or security for said debt?

Answer. I recollect that Alexander Henderson was indebted to the Branch Bank United States at the city of Washington, in the years 1805 and 1806; and that James Wilson was his endorser.

Third. Do you recollect that, in order to secure said debt, there was a lien given upon the ship Governor either by Henderson to the bank or to Wilson, or by said Wilson to the bank?

Answer. I recollect there was a policy of insurance on the ship called the Governor Strong, assigned to the bank as security for the debt alluded to in the second interrogatory; and that there was a lien on the said ship Governor Strong as security to the Bank of the United States at Washington; but I do not recollect whether it was made by Henderson to the bank, or by Henderson to Wilson, and then by James Wilson to the bank. The board of directors did not require additional security until subsequent to the arrival of the news of the ship having met with the disaster at or near Liverpool, when the underwriters severally gave their notes for the sum each supposed he would be liable for; and, to the best of my recollection, the said notes were deposited in the bank; and were, by agreement, to be given up, or, if paid, the amount returned, if it should subsequently be proved that the underwriters were not liable. Some persons were of opinion that the ship had been in port a period of time sufficient to have exonerated the underwriters before the accident occurred; at least, this was the impression of many when the notes were given.

Fourth. Do you recollect the circumstance of any insurance made upon the ship Governor Strong by said Wilson, and that the policy was placed by him in possession of the Branch Bank United States at Washington, as collateral security for said debt?

Answer. I recollect that the said policies were made over to the bank as security for said Henderson's debt.

Fifth. Have you any recollection of certain notes of R. Young, W. Yeaton, Thomas Vowell, John Tucker, and others, being, in the spring of 1805, placed in said bank by James Wilson; and whether said notes were given by the same persons who had subscribed the policy on the ship Governor Strong?

Answer. There were notes of R. Young, W. Yeaton, Thomas Vowell, John Tucker, and others, paid into the bank by James Wilson. Those gentlemen, I understood, were underwriters on the ship Governor Strong.

Sixth. Do you know whether these notes were deposited in bank on account of that policy?

Answer. I recollect they were.

Seventh. Do you know whether there was any understanding or agreement with the bank, at the time they were so deposited, that, in case it should afterwards appear the underwriters were not liable for any loss under this policy, the notes should be returned, or any money paid on them should be refunded?

Answer. I recollect there was an agreement made by the bank to return the amount received from the notes deposited, if the underwriters were not liable for the loss.